

UNITED STATE DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

Docket No. 1:20-CV-02475-LD

HORACIO DAVID VELIZ MONTOYA, INDIVIDUALLY AND ON BEHALF OF OTHERS  
SIMILARLY SITUATED

,Plaintiff(s)

- against -

PREMIUM MILLWORK, INC. D/B/A PREMIUM MILLWORK, ET AL

,Defendant(s)

PROOF OF DILIGENCE

I, THE UNDERSIGNED AM AND WAS ON THE DATES HEREIN MENTIONED, OVER THE AGE  
OF EIGHTEEN YEARS AND NOT A PARTY TO THE ACTION, ATTEMPTED TO SERVE THE  
FOLLOWING:

SUMMONS & COMPLAINT

AND THAT AFTER DUE SEARCH, CAREFUL INQUIRY AND DILIGENT ATTEMPTS AT THE

RESIDENCE: 54 VAN DYKE STREET  
BROOKLYN NY 11231

ALTERNATE: UNKNOWN

I HAVE BEEN UNABLE TO MAKE DELIVERY ON ONE OF THE FOLLOWING NAMED:

JULIO CUENCA

THEREFORE PROCESS IS BEING RETURNED FOR THE FOLLOWING REASONS:

09/02/20 01:53PM THE GIVEN ADDRESS IS A MECHANIC SHOP.  
THE SERVER ATTEMPTED AT THE GIVEN ADDRESS AND  
CAME IN CONTACT WITH THE OCCUPANT IN THE  
MECHANIC SHOP WHO STATED THAT HE DOES NOT  
KNOW WHO THE DEFENDANT IS.  
NO FURTHER INFORMATION KNOWN.  
SERVER RETURNING THIS W.O. FOR FURTHER REVIEW

PERSON SERVING: DONALD DELPRETEE

DGR Legal, Inc.

1359 Littleton Road, Morris Plains, NJ 07950-3000

File # 1:20-CV-02475-LDH (973) 403-1700 Fax (973) 403-9222

Work Order # 510340

Attorney:  
MICHAEL FAILLACE  
MICHAEL FAILLACE & ASSOCIATES  
60 EAST 42ND STREET SUITE 4510  
NEW YORK NY 10166



UNITED STATE DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK  
HORACIO DAVID VELIZ MONTOYA, INDIVIDUALLY AND ON BEHALF OF OTHERS  
SIMILARLY SITUATED  
Plaintiff

Index / case #: 1:20-CV-02475-LDH  
AFFIDAVIT OF SERVICE

PREMIUM MILLWORK, INC. D/B/A PREMIUM MILLWORK, ET AL  
Defendant

Richmond County, State of: New York Donald Secrete being sworn,  
says: Deponent is not a party herein, is over the age of 18 years and resides in the State of: NY  
On 9/2/20 at 153 am/pm at: 54 VAN DYKE STREET BROOKLYN NY 11231  
Deponent served the within: SUMMONS & COMPLAINT

On which were set forth the Index No., herein, and date of filing

On: JULIO CUENCA  
(herein after called the recipient) therein named.

- ☐ Individual By delivering a true copy of each to said recipient personally; Deponent knew the person so served to be the person described in as said recipient therein
- ☐ Suitable Age person By delivering thereat a true copy of each to: \_\_\_\_\_  
a person of suitable age and discretion. Said premises is recipients [ ] Actual Place of Residence  
[ ] Actual Place of Business within the State.
- ☐ Affixing to Door By affixing a true copy of each to the door of said premises which is recipients [ ] Actual Place of Residence  
[ ] Actual Place of Business, within the State  
Deponent was unable with due diligence to find recipient or person of suitable age and discretion thereat having called there \_\_\_\_\_
- ☐ Corporation or Partnership By delivering thereat a true copy of each to: \_\_\_\_\_  
personally. Deponent knew said corporation / partnership so served to be the corporation / partnership described in said  
aforementioned document as said recipient and knew said individual to be \_\_\_\_\_ thereof.
- ☐ Mailing Within 20 days of such delivery, or affixing, deponent enclosed a copy of same in a postpaid envelope properly addressed  
to recipient at recipients last known [ ] Actual Place of Residence [ ] Actual Place of Business  
at \_\_\_\_\_  
and deposited said envelope in an official depository under the exclusive care and custody of the U.S. Postal Service within  
New York State. The envelope bore the legend "personal and confidential" and did not indicate on the outside, thereof  
by return address or otherwise that the communication was from an attorney or concerned an action against the defendant.
- ☐ Description [ ] Male [ ] White skin [ ] Black hair [ ] 14-20 Yrs [ ] Under 5' [ ] Under 100 Lbs  
[ ] Female [ ] Black skin [ ] Brown hair [ ] 21-35 Yrs [ ] 5'0"-5'3" [ ] 100-130 Lbs  
[ ] Yellow skin [ ] Gray hair [ ] 36-50 Yrs [ ] 5'4"-5'8" [ ] 131-160 Lbs  
[ ] Brown skin [ ] Blonde hair [ ] 51-65 Yrs [ ] 5'9"-6'0" [ ] 161-200 Lbs  
[ ] Red skin [ ] Red hair [ ] Over 65 Yrs [ ] Over 6' [ ] Over 200 Lbs
- Other Identifying Features \_\_\_\_\_
- ☐ Military Service I asked the person spoken to whether recipient was in active military service of the United States or the State of  
New York in any capacity whatever and received a negative reply. The source of my information and the grounds of my belief  
are the conversations and observations above narrated.

☐ Subpoena Fee Tendered in the amount of \_\_\_\_\_

☒ Location is a mechanic shop. occupant states he does not know deft.

Sworn to before me on 9/2/20

(Print name below signature)

File No. 1:20-CV-02475-LDH

ROBERT A. ZUFFI, JR.  
Notary Public, State of New York  
Registration #01ZU6208524  
Qualified in Richmond County  
Commission Expires July 6, 2021

Work Order No. 510340

AO 440 (Rev. 06/12) Summons in a Civil Action

# UNITED STATES DISTRICT COURT

for the

Eastern District of New York

HORACIO DAVID VELIZ MONTOYA, individually  
and on behalf of others similarly situated,

*Plaintiff(s)*

v.

PREMIUM MILLWORK, INC. (D/B/A PREMIUM  
MILLWORK) and JULIO CUENCA,

*Defendant(s)*

Civil Action No. 20cv2475

## SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Julio Cuenca  
c/o Premium Millwork  
43 Coffey Street  
Brooklyn, NY 11231

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Michael A. Faillace  
MICHAEL FAILLACE & ASSOCIATES, P.C.  
60 East 42nd Street, Suite 4510  
New York, New York 10165

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.



Douglas C. Palmer  
CLERK OF COURT

Date: 06/04/2020

/s/Priscilla Bowens  
Signature of Clerk or Deputy Clerk